

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

Diana Mey
Plaintiff,

vs.

Case No. 5:18-cv-166

Environmental Safety International, Inc.
a/k/a Septic Safety
a/k/a Activator 1000
Joseph M. Carney
Joe Reed
Defendants.

**MEMORANDUM IN SUPPORT OF PLAINTIFF'S MOTION FOR SUMMARY
JUDGMENT AS TO DEFENDANT JOSEPH M. CARNEY**

Comes now the Plaintiff, Diana Mey, and pursuant to Rule 56 of the FRCP moves this honorable Court to issue summary judgment against the Defendant Joseph M. Carney in the above captioned action. They have failed to keep their addresses up to date with the Court, and at this point do not seem interested in prosecuting a defense to this case.

I. Applicable Law

FRCP Rule 56. Summary Judgment states that:

- (a) "MOTION FOR SUMMARY JUDGMENT OR PARTIAL SUMMARY JUDGMENT. A party may move for summary judgment, identifying each claim or defense—or the part of each claim or defense—on which summary judgment is sought. The court shall grant summary judgment if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law. The court should state on the record the reasons for granting or denying the motion."

II. ARGUMENT

The Plaintiff has attempted to reach out to Mr. Carney about sitting down for a Rule 26(f) meeting and has received no response. See Plaintiff's Motion for a Scheduling Conference, Docket Entry 5 and Exhibits. The order from the Court regarding the Rule 26(f) meeting was

returned to the Court as undeliverable on June 4, 2019. See Docket Entry 7. Further the Defendant has made no attempt to update the Court or Plaintiff's counsel with an address at which he can be reached.

It seems clear at this point that the Defendant has no intention of continuing his prosecution of his Defense, and the Plaintiff moves for an entry of summary judgment for the claims contained in the Complaint.

WHEREFOR, the Plaintiff moves this honorable Court to grant Plaintiff's motion for summary judgment and proceed to a hearing on damages.

DIANA MEY
BY COUNSEL

/s/ Benjamin M. Sheridan
Benjamin Sheridan (# 11296)
Counsel for Plaintiff
Klein & Sheridan, LC
3566 Teays Valley Road
Hurricane, WV 25526
(304) 562-7111

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CERTIFICATE OF SERVICE

I, Benjamin Sheridan, attorney for the Plaintiff, certify that I served a true copy of the foregoing **MEMORADUM IN SUPPORT OF PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT AS TO DEFENDANT JOSEPH M. CARNEY** on the Defendants listed at the addresses below by first class mail, postage prepaid, on this 31st day of July, 2019.

Environmental Safety International, Inc.
a/k/a Septic Safety
a/k/a Activator 1000
685 Bergen Blvd, STE 205
Ridgefield, NJ 07657-1400

Joseph M. Carney
20 Appletree Ln
Hillsdale, NJ 07642-1228

Joe Reed
106 Griffiss Drive
Rome, NY 13440-3817

BY: /s/ Benjamin M. Sheridan
Benjamin Sheridan (# 11296)
Counsel for Plaintiff
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